



DEPARTMENT OF VETERANS AFFAIRS

8320-01

Loan Guaranty: Maximum Allowable Attorney Fees

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: This notice provides information to participants in the Department of Veterans Affairs (VA) Home Loan Guaranty program concerning the maximum attorney fees allowable in calculating the indebtedness used to determine the guaranty claim payable upon loan termination. The table in this notice contains the amounts the Secretary has determined to be reasonable and customary for all States, following an annual review of amounts allowed by other government-related home loan programs.

DATES: The new maximum attorney fees will be allowed for all loan terminations completed on or after [Insert date 30 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Trevayne, Assistant Director for Loan and Property Management (261), Loan Guaranty Service, Department of Veterans Affairs, Washington, DC 20420, (202) 632-8795 (Not a toll-free number).

SUPPLEMENTARY INFORMATION: The VA Home Loan Guaranty program authorized by Title 38, United States Code (U.S.C.), Chapter 37, offers a partial guaranty against loss to lenders who make home loans to Veterans. VA regulations

concerning the payment of loan guaranty claims are set forth at 38 CFR 36.4300, et seq. Computation of guaranty claims is addressed in 38 CFR 36.4324, which states that one part of the indebtedness upon which the guaranty percentage is applied is the allowable expenses/advances as described in 38 CFR 36.4314. Paragraph (b)(5)(ii) of that section describes the procedures to be followed in determining what constitutes the reasonable and customary fees for legal services in the termination of a loan.

The Secretary annually reviews allowances for legal fees in connection with the termination of single-family housing loans, including foreclosure, deed-in-lieu of foreclosure, and bankruptcy-related services, issued by the Department of Housing and Urban Development (HUD), Fannie Mae, and Freddie Mac. Based on increases announced over the past year by these entities, the Secretary has deemed it necessary to publish in the Federal Register a table setting forth the revised amounts the Secretary now determines to be reasonable and customary. The table reflects the primary method for foreclosing in each State, either judicial or non-judicial, with the exception of those States where either judicial or non-judicial is acceptable. The use of a method not authorized in the table will require prior approval from VA. This table will be available throughout the year at: <http://www.benefits.va.gov/homeloans/>.

The new VA table closely mirrors amounts and methods for foreclosure allowed by Fannie Mae. Unlike Fannie Mae, VA has determined that in Hawaii the preferred method of foreclosure should not yet be changed to include a second method. VA is aware that Hawaii has established a new non-judicial foreclosure procedure; however, VA believes this new method is not yet well-established enough to provide acceptable title to the real estate community. Thus, the judicial foreclosure procedure remains the

preferred method. VA will continue to monitor the situation in Hawaii, and make necessary changes as conditions warrant.

Other jurisdictions that require special mention include Oregon, South Dakota, and Nebraska. VA continues to prefer the non-judicial method in Oregon and sees no need to allow the judicial method on a regular basis. However, in South Dakota, VA determined that the non-judicial procedure in South Dakota is not a preferred method of foreclosure. In the past, VA routinely allowed either the non-judicial or judicial method of foreclosure in Nebraska. At this time, VA is designating non-judicial as the preferred method of foreclosure in Nebraska, although special approval may be requested for a case where judicial foreclosure is deemed necessary.

There is no change to the amounts VA will allow for attorney fees for deeds-in-lieu of foreclosure or for bankruptcy relief. VA will continue to monitor these fees on an annual basis, as we are aware that other entities are conducting ongoing reviews of these fees.

The following table represents the Secretary's determination of the reasonable and customary cost of legal services for the preferred method of terminating VA loans in each jurisdiction under the provisions of 38 CFR 36.4314(b)(5)(ii). These amounts will be allowed for all loan terminations completed on or after [Insert date 30 days after date of publication in the FEDERAL REGISTER].

| Jurisdiction | VA Non-Judicial Foreclosure ^{1,2} | VA Judicial Foreclosure ^{1,2} | Deed-in-Lieu of Foreclosure |
|--------------|---|---|--------------------------------|
| Alabama | \$900 | N/A | \$350 |
| Alaska | \$1200 | N/A | \$350 |

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|----------------------|--------|--------|-------|
| Arizona | \$925 | N/A | \$350 |
| Arkansas | \$1050 | N/A | \$350 |
| California | \$1000 | N/A | \$350 |
| Colorado | \$1225 | N/A | \$350 |
| Connecticut | N/A | \$1700 | \$350 |
| Delaware | N/A | \$1350 | \$350 |
| District of Columbia | \$600 | N/A | \$350 |
| Florida | N/A | \$2250 | \$350 |
| Georgia | \$900 | N/A | \$350 |
| Guam | \$1200 | N/A | \$350 |
| Hawaii | N/A | \$2400 | \$350 |
| Idaho | \$1050 | N/A | \$350 |
| Illinois | N/A | \$1750 | \$350 |
| Indiana | N/A | \$1500 | \$350 |
| Iowa | \$850 | \$1300 | \$350 |
| Kansas | N/A | \$1250 | \$350 |
| Kentucky | N/A | \$1700 | \$350 |
| Louisiana | N/A | \$1350 | \$350 |
| Maine | N/A | \$1750 | \$350 |
| Maryland | \$2100 | N/A | \$350 |
| Massachusetts | N/A | \$2000 | \$350 |
| Michigan | \$1000 | N/A | \$350 |
| Minnesota | \$1025 | N/A | \$350 |

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|---|--------|--------|-------|
| Mississippi | \$900 | N/A | \$350 |
| Missouri | \$950 | N/A | \$350 |
| Montana | \$1000 | N/A | \$350 |
| Nebraska | \$900 | N/A | \$350 |
| Nevada | \$1100 | N/A | \$350 |
| New Hampshire | \$1150 | N/A | \$350 |
| New Jersey | N/A | \$2425 | \$350 |
| New Mexico | N/A | \$1500 | \$350 |
| New York—Western Counties ³ | N/A | \$2000 | \$350 |
| New York—Eastern Counties | N/A | \$2400 | \$350 |
| North Carolina | \$1150 | N/A | \$350 |
| North Dakota | N/A | \$1250 | \$350 |
| Ohio | N/A | \$1700 | \$350 |
| Oklahoma | N/A | \$1450 | \$350 |
| Oregon | \$1000 | N/A | \$350 |
| Pennsylvania | N/A | \$1650 | \$350 |
| Puerto Rico | N/A | \$1500 | \$350 |
| Rhode Island | \$1300 | N/A | \$350 |
| South Carolina | N/A | \$1650 | \$350 |
| South Dakota | N/A | \$1250 | \$350 |
| Tennessee | \$900 | N/A | \$350 |
| Texas | \$900 | N/A | \$350 |

| | | | |
|----------------|--------|--------|-------|
| Utah | \$925 | N/A | \$350 |
| Vermont | N/A | \$1700 | \$350 |
| Virgin Islands | N/A | \$1800 | \$350 |
| Virginia | \$925 | N/A | \$350 |
| Washington | \$1000 | N/A | \$350 |
| West Virginia | \$1000 | N/A | \$350 |
| Wisconsin | N/A | \$1500 | \$350 |
| Wyoming | \$1000 | N/A | \$350 |

¹When a foreclosure is stopped due to circumstances beyond the control of the holder or its attorney (including, but not limited to bankruptcy, VA-requested delay, property damage, hazardous conditions, condemnation, natural disaster, property seizure, or relief under the Servicemembers Civil Relief Act) and then restarted, VA will allow a \$350 restart fee in addition to the base foreclosure attorney fee. This fee recognizes the additional work required to resume the foreclosure action, while also accounting for the expectation that some work from the previous action may be utilized in starting the new action.

²VA will allow attorney fees of \$650 (Chapter 7) or \$850 (initial Chapter 13) for obtaining bankruptcy releases directly related to loan termination. For additional relief filed under either chapter, VA will allow an additional \$250.

³Western Counties of New York for VA are: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, and Yates. The remaining counties are in Eastern New York.

Approved: November 4, 2013

Jose D. Riojas, Chief of Staff
Department of Veterans Affairs.

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